IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT PETITION NO.1415 OF 2005

Union of India & Ors....Petitioners

Vs.

Solomon David Banklore ..Respondent

Mr. S.R. Shetty with Mr. Kiran Khapile & Mr. D.A. Dubey i/b. T.C. Kaushik, for petitioners

None for respondent.

CORAM: **F.I. REBELLO &**

MRS.V.K.TAHILRAMANI, JJ.

DATE: 15TH JUNE,2006

P.C. . The Union of India has moved this Court against the order dated 17th November, 2004 in O.A. No.466 of 2004. The respondent in this case was Lift Operator. He was drawing in the pay scale of Rs.210-290 as the recommendation of the 3rd Pay Commission as notified by the Government of India. It was the respondent's contention that he ought to have been fixed in the pay scale of Rs.206-400 and thereafter in the corresponding pay scales as per the 4th and 5th Pay Commission recommendation. The learned Tribunal on consideration of the contention as urged on behalf of the petitioners, allowed the application and directed that the respondents should be paid back-wages on refixation from 1stJanuary, 1973. 2. At the hearing of this petition on

behalf of the petitioners their learned Counsel restricts the challenge to awarding of backwages from 1-1-1973. We find merits in the submission. If ordinarily a suit was filed the respondents would not be entitled to claim wages for a period other than that which could be claimed under the provisions of the Limitation Act. That will also have to be considered while granting relief in a writ petition.

. In the light of that the impugned order will have to be modified. We, therefore, modify the order dated 16th June, 2004 as under:-

(1) The Respondent will be entitled to be fixed in the pay scale of Rs.260-400 from 1-1-1973 and correspondingly pay scale based upon 4th and 5th Pay Commission.

(2) The Respondent's annual increments will also be fixed in the revised pay scale.

(3) The Respondent, however, will be entitled to backwages for a period of 3 years before the date of filing of the Original Application and thereafter.

(4) Rule made partly absolute. There shall be no order as to costs.

(**F.I. REBELLO, J)**

(**MRS.V.K.TAHILRAMANI, J).**